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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

REGINALD MCFADDEN,

Plaintiffs,

9:03-CV-1242
(TJM)(RFT)

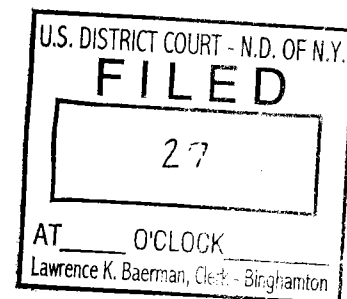
v.

LESTER WRIGHT, M.D., *et al.*

Defendants.

APPEARANCES:

REGINALD MCFADDEN
Plaintiff, *pro se*
95-A-6279
Clinton Correctional Facility
Box 2001
Dannemora, NY 12929-2001



THOMAS J. MCAVOY, DISTRICT JUDGE

ORDER

Presently before this Court is a request to dismiss this action filed by the plaintiff Reginald McFadden ("McFadden" or "plaintiff").¹ See Docket No. 7. Plaintiff's request was submitted in response to the September 16, 2003 order from the Southern District

¹ Plaintiff has previously filed a number of actions in this Court, including 99-CV-1884, 01-CV-16, 03-CV-931 and 03-CV-1002. At least two of these cases have been dismissed on requests for voluntary dismissals by plaintiff, one after the Court denied him the right to proceed *in forma pauperis* due to "strikes" plaintiff has accumulated in the Southern District. (See, 99-CV-1884, 01-CV-16). A review of the Court's docket reveals that several actions filed by McFadden in the Southern District have been dismissed pursuant to 28 U.S.C. § 1915. See *McFadden v. Gribetz*, No. 95 Civ. 4312 (S.D.N.Y. June 9, 1995); *McFadden v. Kralik*, No. 95 Civ. 4320 (S.D.N.Y. June 9, 1995); *McFadden v. Coombe*, No. 96 Civ. 8482 (S.D.N.Y. Nov. 16, 1996); *McFadden v. Orangetown Police Dep't*, No. 96 Civ. 8767 (S.D.N.Y. Nov. 21, 1996); *McFadden v. Kuhlmann*, No. 97 Civ. 0523 (S.D.N.Y. Jan. 24, 1997); *McFadden v. Kralik*, No. 97 Civ. 1244 (S.D.N.Y. Feb. 21, 1997).

of New York transferring this matter to this Court. See Docket No. 4 . McFadden states that he wishes to dismiss this claim due to the transfer to the Northern District, and because there has been no service of the complaint in this action. See Docket No. 7.

Rule 41(a)(1) of the Federal Rules of Civil Procedure provides in relevant part as follows:

[A]n action may be dismissed by the plaintiff without order of court (i) by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, which ever first occurs....

As of the date hereof, the defendants named in plaintiff's *pro se* complaint have not been served with the summons and complaint, and plaintiff is entitled to dismiss this action.

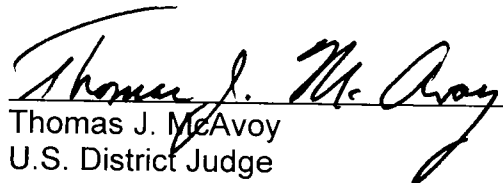
WHEREFORE, based upon the above, it is hereby

ORDERED, that this action is dismissed pursuant to plaintiff's request (Docket No.7), and it is further

ORDERED, that the Clerk serve a copy of this Order on the plaintiff by regular mail.

IT IS SO ORDERED.

Dated: Oct. 24 , 2003


Thomas J. McAvoy
U.S. District Judge